



STATE OF NEW JERSEY

In the Matter of Albert Gonzalez, Jr.,
Fire Fighter (M1544T), Jersey City

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-31

List Removal Appeal

ISSUED: NOVEMBER 26, 2018 (SLK)

Albert Gonzalez, Jr. represented by Michael L. Prigoff, Esq. appeals his removal from the eligible list for Fire Fighter (M1544T), Jersey City on the basis of an unsatisfactory background report.

The appellant took the open competitive examination for Fire Fighter (M1544T), achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background report.

On appeal, the appellant requested copies of all documents upon which the appointing authority relied upon to request his removal. Further, he stated that upon receipt of this material, he reserved the right to respond. By letter dated August 8, 2018, the appointing authority provided a copy of its background report to the appellant's counsel.

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, submits its background report. Further, the appointing authority asserts that the appellant has an unsatisfactory employment history. Specifically, the appellant was terminated by Jersey City as a Police Officer in 2009 for, among other things, concealing information from his superiors. Thereafter, he was arrested for impersonating a police officer in August 2010 for allegedly informing a Point Pleasant Police Officer that he was a Jersey City Police

Officer when he was not, which led to him pleading guilty to an amended charge of disorderly conduct and paying a fine. Additionally, in 2017, he was terminated from employment with Amazon. The appointing authority presents that an appointing authority can make inquiries into an applicant's arrest record when applying for a position as a Fire Fighter and it may remove a candidate from a Fire Fighter eligible list where that candidate's arrest record and background adversely relates to the position. It argues that the appellant's background demonstrates that he does not have the integrity and trust needed to be a Fire Fighter.

Although given the opportunity and provided a copy of the appointing authority's background report by letter dated August 8, 2018, the appellant did not respond.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal of an individual from an eligible list who has a prior employment history which relates adversely to the position sought.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In the instant matter, the appointing authority properly removed the appellant's name from the subject list. Although the appointing authority provided the appellant's counsel copies of the documentation it utilized in support of its request to remove his name from the list, the appellant has not presented any argument or information to demonstrate that the decision to remove his name was in error. Therefore, the appellant has not sustained his burden of proof and his appeal is denied on that basis alone.

Regardless, the appointing authority had valid reasons to remove the appellant's name from the subject eligible list. Initially, it is noted that the appellant has not provided any explanation for his past actions. Further, in *In Karins v. City of Atlantic City*, 152 *N.J.* 532, 552 (1998), the Supreme Court stated that "[f]irefighters are not only entrusted with the duty to fight fire; they must also be able to work with the general public and other municipal employees, especially police

officers, because the police department responds to every emergency fire call. Any conduct jeopardizing an excellent working relationship places at risk the citizens of the municipality as well as the men and women of those departments who place their lives on the line on a daily basis. An almost symbiotic relationship exists between the fire and police departments at a fire.” Clearly, the appellant’s termination in 2009 as a Jersey City Police Officer for concealing information from his superiors and subsequent arrest in 2010 for impersonating a police officer adversely relates to the position of Fire Fighter as these actions call into question his integrity and trust to work with the general public, the police and other municipal employees as well as his ability to follow orders from his superiors as a Fire Fighter, which is a position that is crucial to saving lives. Moreover, the appellant was terminated from his employment with Amazon in 2017, which was after the August 31, 2015 closing date. Therefore, he cannot demonstrate that his background and employment history has been sufficiently rehabilitated.

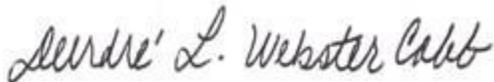
Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing his name from the Fire Fighter (M1544T), Jersey City eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 21st DAY OF NOVEMBER, 2018



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